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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/080,144	02/21/2002	David Weldum	702_083	9288

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WALL MARJAMA & BILINSKI
101 SOUTH SALINA STREET
SUITE 400
SYRACUSE, NY 13202

EXAMINER

NGUYEN, LUONG TRUNG

ART UNIT	PAPER NUMBER
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2612

DATE MAILED: 06/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

pr24

Office Action Summary

Application No.

10/080,144

Applicant(s)

WELDUM ET AL.

Examiner

LUONG T NGUYEN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 2,3,7,8,10,13,14,16,17,21,22,24,27 and 28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-6,9,11,12,15,18-20,23,25 and 26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 April 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Applicant's election without traverse of Group I, comprising Claims 1, 6, 12, 15, 20 and 26 in Paper No. 8 filed on 3/18/2003 is acknowledged.

2. Claims 2-3, 7-8, 13-14, 16-17, 21-22, 27-28 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 8 filed on 3/18/2003.

In addition, claims 10 and 24 recite the feature "to clear overlay from said image", which is included in Group II, drawn to a method for storing overlay replacement data. Group II is a nonelected invention. Therefore, claims 10 and 24 are withdrawn from consideration by the Examiner. The Examiner apologizes for not mention this matter in the Restriction Requirement in Office Action made on 2/12/2003.

The linking claims 4, 5, 9, 11, 18, 19, 23, 25, linking Groups I, II, II, will be examined along with elected Group I, comprising claims 1, 6, 12, 15, 20 and 26.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 5-6, 9, 11-12, 19-20, 23, 25-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 (lines 6, 7) recite the limitation "said medium". It is unclear because it is known the limitation refers to the limitation "an image transfer medium" in claim 1 (line 1) or limitation "a specific image transfer medium" in claim 1 (line 5).

Claim 19 (lines 6, 7) recite the limitation "said medium". It is unclear because it is known the limitation refers to the limitation "an image transfer medium" in claim 19 (line 1) or limitation "a specific image transfer medium" in claim 19 (line 5).

Claims 6, 9, 11-12 are rejected as being dependent on claim 5.

Claims 20, 23, 25-26 are rejected as being dependent on claim 19.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1, 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Fenster et al. (US 6,461,298).

Regarding claim 15, Fenster et al. disclose a system for storing calibration data within image transfer media, comprising means for embedding data specific to a measurement system into said image transfer media (the tilt angle of the probed is measured and is stored in the calibration file, column 7, lines 5-10) so that said data is retrievable by a custom application direct from said image transfer media (retrieve the other related image data in the calibration file

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from memory 88, column 9, lines 44-45), thereby allowing re-measurement without using a second transfer media for measurement system information (it is noted that the other related image data in the calibration file from memory 88 is retrieved from the same calibration file, therefore, it does not need to use a second calibration file for measurement system information).

Claim 1 is a method claim of apparatus claim 15. Therefore, claim 1 is rejected for the same reason given respect to apparatus claim 15.

7. Claims 4, 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Parulski et al. (US 6,310,647).

Regarding claim 18, Parulski et al. disclose a system for storing image data and corresponding image-specific data, comprising means for storing a combination of image data and one or more of system calibration data, overlay replacement data, and audio comment data in a single file of either a non-standard file format or a standard file format that does not explicitly support the inclusion of these data types (FlashPix file contains the completed image and “ancillary” data, such as audio data, calibration data in the same file, column 1, lines 41-65).

Claim 4 is a method claim of apparatus claim 18. Therefore, claim 4 is rejected for the same reason given respect to apparatus claim 18.

Claim Rejections - 35 USC § 103

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8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 5, 9, 11, 19, 23, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parulski et al. (US 6,310,647).

Regarding claim 19, Parulski et al. disclose a system for storing, within an image transfer medium, an image and image-specific data associated with said image, comprising means for obtaining said image (CCD sensor 18, figure 1, column 4, lines 1-10); means for choosing a specific image transfer medium (image file format, column 3, lines 49-65); means for writing said image to said medium (column 4, lines 1-16); means for writing said image-specific data to a marker in said medium (first application marker storing a first data value to convey a first information related to the image, column 3, lines 3-6).

Parulski et al. fail to specifically disclose means for obtaining said image-specific data. However, Parulski et al. disclose storing a first data value (image-specific data) related to the image, column 3, lines 3-6). It would have been obvious to include means for obtaining the image-specific data into the system in order to let the system recognize each image file.

Claim 5 is a method claim of apparatus claim 19. Therefore, claim 5 is rejected for the same reason given respect to apparatus claim 19.

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Regarding claims 9, 23, Parulski et al. disclose wherein said specific image transfer medium is a JPEG file (JPEG file, column 3, lines 49-65).

Regarding claims 11, 25, Parulski et al. disclose means for determining if said image-specific data is contained in said image transfer medium; means for retrieving the image-specific data from the image transfer medium (car readers 50 in computer may be capable of reading FlashPix and JIF files (column 4, lines 5-16). FlashPix file contains the completed image and "ancillary" data (image-specific data), such as audio data, calibration data in the same file, column 1, lines 41-65). This shows that car readers 50 can determine if said image-specific data is contained in said image transfer medium and retrieve the image-specific data from the image transfer medium.

10. Claims 6, 12, 20, 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parulski et al. (US 6,310,647) in view of Fenster et al. (US 6,461,298).

Regarding claims 6, 12, 20, 26, Parulski et al. fail to specifically disclose wherein the image is obtained from a probe and the image-specific data includes measurement tip calibration data from said probe. However, Fenster et al. disclose an ultrasound imaging system includes an ultrasound probe, and the tilt angle of the probed (the image-specific data) is measured and is stored in the calibration file (see abstract, and column 7, lines 5-10). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device in Parulski et al. by the teaching of Fenster et al. in order to obtain a system and method

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for generating a three-dimensional image from a succession of two-dimensional images (column 1, lines 56-59).

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Parulski et al. (US 5,696,850) disclose image sharpening in an electronic imaging system.

Hossack et al. (US 6,338,716) disclose medical diagnostic ultrasound transducer probe.

Shabidi (US 2002/0077544) disclose endoscopic targeting method and system.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Luong Nguyen** whose telephone number is **(703) 308-9297**. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wendy Garber** can be reached on **(703) 305-4929**.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231


Or faxed to : (703) 872-9314

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington, VA, Sixth Floor (Receptionist).

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 whose telephone number is (703) 306-0377.

LN *LW*
5/31/2003


WENDY R. GARBER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600